



The Salisbury Planning Board held its regular meeting Tuesday, December 9, 2008, in the City Council Chamber of the Salisbury City Hall at 4 p.m. with the following being present and absent:

**PRESENT:** Karen Alexander, Maggie Blackwell, Tommy Hairston, Richard Huffman, Craig Neuhardt, Valarie Stewart, Bill Wagoner, and Diane Young.

**ABSENT:** Dr. Mark Beymer, Robert Cockerl, and Albert Stout

**STAFF:** Dan Mikkelson, Preston Mitchell, David Phillips, and Jewell Stokes

This meeting was digitally recorded for Access 16 television by Jason Parks.

Diane Young was appointed Chair for this meeting; she called the meeting to order and Tommy Hairston offered an invocation. The minutes of the September 23, 2008, meeting were approved as submitted. The Planning Board adopted the agenda—taking no action on item C and omitting the election of a vice chair.

Ms. Young explained the Courtesy Hearing process.

## **NEW BUSINESS**

### **A. Group Development**

- Presentation from staff with recommendation from TRC
- Courtesy Hearing
- Board Discussion
- Recommendation
  - G-19-07 Pinnacle Office Park Phase IV
  - 1900 Block South Main Street
  - TM-061 P-071

David Phillips made a staff presentation for the construction of a six-building, professional office park with up to 50 units and 365 parking spaces. This development is 75,000 total square feet of office and medical known as Phase IV.

This plan was submitted prior to the adoption of the new Land Development Ordinance and will be considered under the old zoning code (B-1 Office Institutional with a general development A Overlay). Multiple structures and buildings over 10,000 square feet had to come before Planning Board and City Council under the old code. All uses and signage will be under the current Land Development Ordinance.

Interconnectivity is being provided from South Main Street through the other phases. This is not allowing access through the adjoining neighborhood. Stabilization plants will be added to the steep slope of the property. A six-foot privacy fence will provide complete visual separation from the adjacent apartments and along the Rosemont neighborhood. Drainage should not impact properties downstream.

DOT is requiring the entrance to be permitted; a turn lane will have to be created by restriping that section of South Main Street. Pedestrian access is encouraged but not required.

Staff recommends approval with the recommendations.

*Those speaking in opposition:* None

*Those speaking in favor*

Chuck Harris of Fisher Harris Development, 614 N. Main Street, is the petitioner. This is a continuation of Pinnacle Office Park. This is (roughly) a \$15 million addition to Salisbury's tax base.

We have worked very closely with staff; this has been a thoroughly vetted site plan. This is an engineered site plan. (This site has a 40-foot fall.) They are reserving 30 feet for a future water line.

*Board Discussion*

Traffic analysis shows the drive can handle more traffic than what they are showing. Those who currently have access will continue to have access. If there is any way to provide sidewalk from the site, down the drive, it would certainly be a preference of this board, although we certainly cannot require it at this time.

Valarie Stewart made a motion to approve G-19-07 as submitted. The motion was seconded with all members voting AYE. (8-0) This will proceed to City Council Tuesday, December 16, 2008.

## **B. Special Use Permit**

- Swear in those persons testifying at courtesy hearing
- Present evidence—courtesy hearing
  - Receive testimony from staff
  - Receive testimonies from proponents and opponents
- Findings of facts
- Recommendation to City Council

SUP-05-08                      Proposed Nightclub  
    923 South Main Street  
    TM-061 P-048

Application submitted by Lee Chann McManus to operate a Bar/Nightclub

Ms. Young explained the Courtesy Hearing process and swore in persons who planned to speak during the quasi-judicial hearing.

David Phillips made a staff presentation. This submittal is a request for a Special Use Permit for a nightclub.

Production of Evidence

1. The burden is on the applicant to present sufficient evidence to allow the board(s) to make findings that the required standards will be met.
2. The burden is on an opponent to present sufficient evidence that a standard will not be met.
3. If insufficient evidence is presented that the required standards will be met, then the SUP must be denied.
4. If uncontradicted evidence is presented that all of the standards will be met, then the SUP must be issued.
5. If uncontradicted evidence is presented that even one of the general or specific standards will not be met, then the SUP must be denied.
6. If there is conflicting evidence, the board(s) decides what the facts are and decides accordingly.

The evaluation and approval of the Special Use Permit shall be governed by quasi-judicial proceedings, which are based upon the sworn testimony and evidence presented at the hearing relevant to the following standards:

- a. The use meets all required principles and specifications of the Ordinance and all adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and
- b. The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area; and
- c. The public health, safety, and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed.

The property is zoned HB/Highway Business. It requires a Dance Hall Permit, too. The Police Department will proceed with this permit if Council approves this Special Use Permit.

*Those speaking in opposition*

**Douglas Pentek**, 1400 Rosehill Drive, Waxhaw, NC owns the building and parking adjacent to this property. His tenant and he are equally concerned about a bar and the type of people that would be coming to the nightclub. It is not suitable for this commercial neighborhood.

*Those speaking in favor*

**Lee Chann McManus**, 206 Cruse Circle, is the petitioner for the nightclub. He offered handouts to the Board. They will be gearing their business to the 21 and over crowd and plan to have a “college night.” Police will be on duty, they will have in-house bouncers, and a coat check. There will be security outside and no loitering.

He has never opened a nightclub before. This will be his job—to manage the nightclub. The hours of operation will be Thursday through Saturday 10 p.m. until 2 a.m. and Sunday 10 p.m. until 1 a.m.

The Fire Marshall gave a capacity of 501 – after restroom renovations, the petitioner anticipates 385. There are two entrances proposed for the building. A sprinkler system is not required. Plans have been submitted to the Rowan County Inspections Department.

One individual owns the building and has authorized use of the whole parking lot. They will seek authorization from other parking lot owners for use of their parking.

**Diane Young** asked for testimony from others who had been sworn in.

**Lamont Tucker**, 807 Washington Street, East Spencer, NC, identified himself as a good friend of Mr. McManus for 20 years and has lived in Rowan County a lifetime. Lee Chann has community support. They are aware of Salisbury gang activity and hope to appeal to an older (better) crowd.

Diane Young closed the Courtesy Hearing.

*Board Discussion*

The Board got clarification from staff about the parking provisions. Staff recommended the petitioner submit approval letters to the Board from adjacent property owners allowing parking on their respective properties after hours. The Land Development Ordinance (LDO) Section 10.2c relating to multi-tenant development requires a maximum 24 spaces for this building and there are more spaces than that. Someone could elect to drive over the grass into the adjacent parking lot. Mr. McManus plans to have someone directing the flow of traffic in the parking lot. There is no sidewalk on Main Street for people walking from “overflow parking” (Air Masters) to the site. Cones could be used to make parking more evident. Good communication is encouraged.

Plans for the exterior (elevations) were not available for discussion. Mr. McManus said there will be no changes to the exterior.

Dick Huffman made a MOTION to table SUP 05-08 to allow the petitioner to gather some more information 1) more information regarding available parking spaces on the site and others, 2) letters from the owners allowing parking on their property, 3) exterior lighting plan, and 4) meet with property owners; Mr. McManus and Mr. Pentek (and his tenant) should have a discussion and report the outcome. What are the specific plans for special events? The motion seconded with all members voting AYE. (Approved 8-0)

## **OTHER BOARD BUSINESS**

- October 15, 2008, Planning Board had orientation and training session that was well attended.
- There is a new Planning Board Web site for planning packets formerly received by mail and now available online. [http://www.salisburync.gov/lm&d/pb/planningboard\\_fp.html](http://www.salisburync.gov/lm&d/pb/planningboard_fp.html) Regular meetings are now once a month—the fourth Tuesday of each month. The second Tuesday is reserved for committee work.
- January 13, 2009, the Nominating Committee (aka the Rules of Procedure Committee; Mark Beymer, Diane Young, Valarie Stewart, Craig Neuhardt, Tommy Hairston, and Karen Alexander) will meet in the second floor conference room at 4 p.m. to discuss the Vice Chair position formerly held by Jeff Smith.
- January 13, 2009 will be the annual goals-setting session charged to Legislative Committee A (Valarie Stewart, Bill Wagoner, Mark Beymer, Robert Cockerl, Karen Alexander and Dick Huffman) at 4:30 following the nominating committee. Second Floor Conference Room
- The next Planning Board meeting will be January 27, 2009. The Board will elect a new vice chair and adopt goals. SUP 05-08 will probably come back for that meeting for a recommendation; there should be no discussion until further evidence is received at the next meeting.
- February 10, 2009 at 4 p.m. the Rules of Procedure Committee (Mark Beymer, Diane Young, Valarie Stewart, Craig Neuhardt, Tommy Hairston, and Karen Alexander) will convene.

There being no further business to come before the Planning Board, the meeting was adjourned at 5:55 p.m.

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Diane Young, Chair

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Secretary, Diana Moghrabi